UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,860	08/25/2003	**Atsushi Shibutani**	03503/LH	4198

1933 7590 08/19/2008

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER	
CHIO, TAT CHI	
ART UNIT	**PAPER NUMBER**
2621	

MAIL DATE	DELIVERY MODE
08/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/648,860	SHIBUTANI, ATSUSHI	
	Examiner	Art Unit	
	TAT CHI CHIO	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 June 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,10-17 and 22-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,10-17,22-26 and 28* is/are rejected.

7)☒ Claim(s) *27* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/5/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/2/2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-4, 10-17, and 22-28 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4, 10-13, 15, 16, 22-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ejima et al. (US 6,229,953 B1) in view of Niikawa (US 2001/0003464 A1) and Akiyama et al. (US 2001/0002142 A1).

Consider claims 1, 17, and 22, Ejima et al. teach an image and audio reproducing apparatus comprising: a display device; a storage device (24 of Fig. 4) which stores a frame of image data, audio data which is generated before and at a pick-

up timing of the frame of image data and time data indicating the pick-up timing (Fig. 5 and Fig. 9); an audio reproducing device which reproduces the audio data (5 of Fig. 4); an image reproducing device which reproduces the frame of image data to display an image of the frame of image data on the display device (6 of Fig. 4); but do not explicitly teach a controller which controls the image reproducing device so that a display size of the image of the frame of image data gradually changes until the audio reproducing device reproduces the audio data generated at the pick-up timing.

Niikawa teaches a controller which controls the image reproducing device so that a display size of the image gradually changes until the audio reproducing device reproduces the audio data generated at the pick-up timing ([0084] and [0087]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate zoom function in the apparatus to zoom to the area of interest in the scene as the apparatus is capturing the video and audio.

However, Ejima et al. and Niikawa do not explicitly teach performing processing on the same frame of the same image.

Akiyama et al. teach the size of a picture, which is expressed by the number of pixels whose data is contained in image data for one picture (i.e., the number of horizontal pixels x that of vertical pixels), is changed so as to fit the size of a display screen ([0004]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to perform picture size changing on the same frame of the same picture to allow proper display of the picture on the screen.

Consider claim 2, Ejima et al. and Niikawa teach the image and audio reproducing apparatus, wherein the controller controls the image reproducing device so that the display size changes gradually at a constant ratio in a predetermined changing manner until the audio reproducing device reproduces the audio data generated at the pick up timing (col. 12, lines 1-12 and Fig. 9 of Ejima et al., and [0084] and [0087] of Niikawa, constant zoom in).

Consider claim 3, Ejima et al. and Niikawa teach the image and audio reproducing apparatus, wherein the controller controls the image reproducing device so that the display size enlarges gradually until the audio reproducing device reproduces the audio data generated at the pick-up timing (Fig. 5 of Ejima et al. and [0084] and [0087] of Niikawa, zoom in).

Consider claim 4, Ejima et al. and Niikawa teach the image and audio reproducing apparatus, wherein the controller controls the image reproducing device so that the display size reduces gradually until the audio reproducing device reproduces the audio data generated at the pick-up timing (Fig. 5 of Ejima et al. and [0084] and [0087] of Niikawa, zoom out).

Consider claim 10, Ejima et al. and Niikawa teach the image and audio reproducing apparatus, wherein the storage device further stores audio data which is generated after the pick-up timing (24 of Fig. 4 and Fig, 9 of Ejima et al.), and the controller controls the audio reproducing device to reproduce the audio data generated after the pick-up timing (Fig. 12 of Ejima et al., the user is able to listen to the sound that

he/she captures), after the audio data which is generated at the pick-up timing is reproduced (34 of Fig. 4, col. 12, lines 1-12 and Fig. 9 of Ejima et al.).

Consider claim 11, Ejima et al. and Niikawa teach the image and audio reproducing apparatus, wherein the storage device further stores audio data which is generated after the pick-up timing (24 of Fig. 4 of Ejima et al.), and the controller controls the audio reproducing device so that the display size of the image one of enlarges and reduces gradually until the audio reproducing device reproduces the audio data generated at the pick-up timing (Fig. 5 of Ejima et al. and [0084] and [0087] of Niikawa, zoom in), and the other of reduces and enlarges gradually after the audio reproducing device reproduces the audio data generated at the pick-up timing (Fig. 5 of Ejima et al. and [0084] and [0087] of Niikawa, zoom out).

Consider claim 12, Ejima et al. teach the image and audio reproducing apparatus, further comprising: a selector (when the power switch is turned off, the controller is disabled. 11 of Fig. 1) which selectively disables the controller, and wherein the controller controls the image reproducing device to display information indicating the pick-up timing on the display device when the selector does not disable the controller (Fig. 5).

Consider claim 13, Ejima et al. teach the image and audio reproducing apparatus, wherein the storage device stores plural sets a frame of image data and audio data which are associated with each other, and the apparatus further comprises: a first selector which selects one of the plural sets stored in the storage device, and wherein the audio reproducing device reproduces the audio data the selected set, and

the image reproducing device reproduces the frame of the image data of the selected set (col. 7, lines 11-25 of Ejima et al. and [0004] of Akiyama et al.).

Consider claim 15, Ejima et al. teach the image and audio reproducing apparatus, wherein the controller comprises a second selector (7A of Fig. 2) which selects a set of audio data which is generated before and at the pick-up timing and a frame of image data and presents the selected set as a selection candidate for the first selector.

Consider claim 16, Ejima et al. teach the image and audio reproducing apparatus, wherein the image and audio reproducing apparatus comprises a digital camera comprising: a pick-up device which produces the frame of image data (20 and 31 of Fig. 4 produce the pick-up image data and output to 32 of Fig. 4); and a recorder which produces the audio data (8 of Fig. 4 produces the audio data to 36 of Fig. 4).

Consider claim 23, Ejima et al., Niikawa, and Akiyama et al. teach the image and audio reproducing apparatus, wherein the controller controls the image reproducing device so that a display area of the display device on which the image of the frame of image data is displayed gradually changes until the audio reproducing device reproduces the audio data generated at the pick-up timing (Fig. 5 and Fig. 9 of Ejima et al., [0084] and [0087] of Niikawa, and [0036] of Akiyama et al.).

Consider claim 24, Akiyama et al. teach the image and audio reproducing apparatus, wherein the image reproducing device generates the image of the frame of iamge data to be displayed by changing a number of pixels in the frame of image data in accordance with a designated display size ([0036]).

Consider claim 25, Ejima et al., Niikawa, and Akiyama et al. teach the image and audio reproducing apparatus, wherein the controller controls the image reproducing device so that the image is displayed in a first predetermined display size when the audio reproducing device reproduces the audio data generated at the pick-up timing (Fig. 5 and Fig. 9 of Ejima et al., [0084] and [0087] of Niikawa, and [0036] of Akiyama et al).

Consider claim 26, Ejima et al., Niikawa, and Akiyama et al. teach the image and audio reproducing apparatus, wherein the controller controls the image reproducing device so that the display size of the image of the frame of image data one of enlarges and reduces gradually toward the first predetermined display size until the audio reproducing device reproduces the audio data generated at the pick-up timing (Fig. 5 and Fig. 9 of Ejima et al., [0084] and [0087] of Niikawa, and [0036] of Akiyama et al.).

Consider claim 28, Ejima et al., Niikawa, and Akiyama et al. teach the image and audio reproducing apparatus, wherein the controller controls the image reproducing device so that the display size of the image enlarges toward a first display size which corresponds to a display size of the display device until the audio reproducing device reproduces the audio data generated at the pick-up timing, and wherein the image of the frame of image data is displayed in the first displayed size when the audio reproducing device reproduces the audio data generated at the pick-up timing (Fig. 5 and Fig. 9 of Ejima et al., [0084] and [0087] of Niikawa, and [0036] of Akiyama et al.).

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ejima et al. (US 6,229,953 B1) in view of Niikawa (US 2001/0003464 A1) and Akiyama et al. (US

2001/0002142 A1) as applied to claims 1 and 13 above, and further in view of Hori et al. (4,965,675).

Consider claim 14, Ejima et al., Niikawa, and Akiyama et al. teach all the limitations in claims 1 and 13 and teach the controller that controls the image reproducing device to display information indicating the pick-up timing on display device but fail to teach a determining unit which determines whether the storage device stores audio data which is generated before and at the pick-up timing.

Hori et al. teach a determining unit which determines whether the storage device stores the audio data which is generated before and at the pick-up timing (col. 12 and lines 54-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a determining unit so that the recorded audio signals can be reproduced with the image data that are recorded together.

Allowable Subject Matter

4. Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAT CHI CHIO whose telephone number is (571)272-9563. The examiner can normally be reached on Monday - Thursday 9:00 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. C. C./
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621